

February 16, 2015

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VIA ONLINE COMMENTS SUBMISSION

Emerging Payments Task Force
Conference of State Bank Supervisors
1129 20th Street, NW
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Re: Virtual Currency Model Framework and Request for Public Comment

To Whom It May Concern:

In response to the request for public comment of the Conference of State Bank Supervisors ("CSBS") of December 16, 2014, The Money Services Round Table¹ ("TMSRT") submits the following comments on the CSBS Draft Model Regulatory Framework ("Draft Framework") for virtual currencies. TMSRT appreciates the opportunity to provide these comments on the Draft Framework and the related Questions for Public Comment.

Introduction

The members of the TMSRT have all operated their traditional money transmission businesses for many years under the supervision of state banking authorities. During this time, TMSRT has worked with state banking authorities as they have developed the regulations that govern the money transmission industry today. TMSRT has always supported robust regulations that are designed to ensure the safety and soundness of licensees and believes that the money transmission regulations that exist today provide that protection for consumers. But regulation also needs to have appropriate limits. Regulatory requirements inevitably impose costs on businesses—costs that ultimately must be borne by

¹ TMSRT is comprised of the leading national non-bank money transmitters, including RIA Financial Services, Sigie Corporation, American Express Travel Related Services Company, Inc., Western Union Financial Services, Inc., MoneyGram Payment Systems, Inc., and Integrated Payment Systems, Inc. These companies offer a variety of non-bank funds transmission services, often in locations not served by banks and other depository institutions. Examples of offered services include funds transfer through retail points of sale, the internet, mobile phones, and other avenues.

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consumers. Thus, one of the most important factors that must be considered when imposing new regulations on an industry is whether the cost imposed by a regulation is commensurate with the risk that regulation seeks to mitigate. Put differently, regulations should be tailored to the specific risks that are inherent to the regulated entity. Thus, in the context of the Draft Framework, it is important that regulations that are designed to address risks that are unique to virtual currency businesses not be imposed on traditional money transmitters.

Whether Virtual Currency Businesses Should be Regulated

As a preliminary matter, TMSRT believes that the antecedent question of *whether* a state should regulate virtual currency is a policy question for each individual state (just as states make separate policy decisions about whether to regulate money transmission, and specific types of money transmission). In other words, while TMSRT supports the efforts of CSBS to facilitate a coherent and consistent regulatory regime for entities involved in the transmission, storage, and exchange of virtual currencies, it does not believe that it is necessarily the case that all businesses engaged in activities relating to virtual currency should be regulated. As CSBS's request for comments acknowledges, the virtual currency industry is in its infancy and is continuing to evolve. At this point in time, certain states may decide that it is appropriate to allow the industry additional time to evolve before imposing regulations. Better insight into the industry may allow for better and more precise regulation.

If Virtual Currency Businesses are Regulated, Regulations Addressing Risks Inherent to Virtual Currency Businesses Should Not Apply to Traditional Money Transmitters

In the event that a state does decide to regulate virtual currency businesses, regulations designed to address risks inherent to virtual currency businesses should not apply to traditional money transmitters. Any regulatory regime intended to cover virtual currency activities should either be: (1) wholly distinct from the regulation of traditional money transmitters (though relying, of course, on similar safety and soundness principles); or (2) added to existing transmitter licensing regulations, but with regulations addressing risks inherent to virtual currency businesses specifically limited to virtual currency businesses.

TMSRT is very concerned that if regulations for virtual currency businesses are merged with regulations covering traditional money transmission businesses, those regulations could impose significant and unwarranted new costs on traditional money transmitters. The following are examples of situations where regulatory requirements aimed to mitigate risks inherent to virtual currencies are not likely to be appropriate for traditional money transmitters:

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- Today and for the foreseeable future, virtual currencies will be inherently more risky than fiat currencies such as the U.S. dollar. Virtual currencies are susceptible to theft or destruction when stored virtually (which is the only way that virtual currency can be stored).
 - We would anticipate that state regulators might want to impose substantial bonding, permissible investment and net worth or capital requirements in order to ensure the safety and soundness of virtual currency businesses. These enhanced requirements should not apply to traditional money transmitters.
- Virtual currency does not exist in tangible form, cannot be replaced and cannot be deposited in a government insured bank account.
 - A state regulator may want to impose stringent information technology and cybersecurity requirements on virtual currency businesses. These same risks are not present in traditional money transmitters, and it would not be appropriate to require traditional money transmitters to meet the same requirements.

The Definition of Virtual Currency Cannot be Overly Inclusive

Due to the ever evolving nature of virtual currency, there may be a tendency to define virtual currency broadly in order to capture an unforeseen evolution. An overbroad definition of virtual currency should be avoided. For example, if virtual currency is defined as any digital representation of value, then it might arguably cover items that states have acknowledged are not appropriate for money transmitter regulation, such as rewards points programs. Any virtual currency regulatory regime must be carefully defined to capture *only* bona fide virtual currency transmission and exchange activities. To avoid any such inadvertent overlap, the definition of virtual currency used for purposes of determining the applicability of licensing requirements should exclude digital representations of non-monetary value such as rewards points that have no cash value.

Questions for Public Comment Regarding NMLS

TMSRT also appreciates that CSBS has used the promulgation of the Draft Model Regulatory Framework to invite comment on general issues pertaining to the regulation of non-bank money transmitters. TMSRT offers the following comments in response to questions posed by CSBS regarding the use of the Nationwide Mortgage Licensing System (“NMLS”).

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TMSRT continues to support the development and implementation of NMLS services for money transmitters. TMSRT hopes that one day NMLS can become the vehicle through which money transmitters can apply for and renew all of their state money transmitter licenses in a single submission. At present, one of the major barriers to making this a reality is the differences in information requirements between various states.

For example, states using NMLS impose varying requirements with regard to the financial information required of an applicant. Some states require only financial statements that include balance sheets, income statements and cash flow statements, but other states require additional information such as opinion letters and information about shareholder's equity. Some states require only year-end financial statements, while others require information current through the most recently completed quarter. In addition, the number of years of historical information required differs by state as well. Similarly, while states ask for structural organizational information (such as management organization, parent companies, etc.), states ask for this information to be packaged in slightly different ways. For instance, some states require lists of members of the Board of Directors to be provided in a management chart, but others do not. Many states require the applicant (or a licensee) to provide background information about directors and senior officers, but the information requested is not uniform. These differences do not appear to lead to material differences in the quality of the information that regulators receive. They do increase, however, the complexity of the license renewal process. In addition, as has been widely acknowledged, licensees must comply with duplicative and redundant fingerprinting requirements. It would greatly increase the efficiency of NMLS if a licensee could submit a single set of fingerprints through the NMLS system.

TMSRT hopes that CSBS can promote the NMLS as not only as the central point where money transmitters can file license applications and renewals but also the system that achieved convergence or uniformity in the *substance* of what is required of licensees across states. If NMLS evolves into a repository where money transmitters can submit *uniform information* used by multiple states in their licensing processes, NMLS has the potential to create substantial efficiencies.

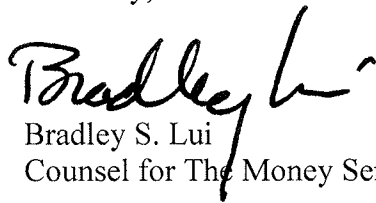
TMSRT encourages the CSBS to set uniform standards for licensing information. Common renewal requirements would enhance the efficiency of the operations of licensees, lower the costs of operations, create more predictability, and ensure that more time and energy can be dedicated to meeting consumers' needs.

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TMSRT appreciates the opportunity to comment on the important issues raised by CSBS. If you have any questions concerning the above comments, or if TMSRT may otherwise be of assistance by providing additional information or guidance, please do not hesitate to contact me.

Sincerely,



Bradley S. Lui
Counsel for The Money Services Round Table